



Indiana Judicial
Nominating Commission

30 South Meridian Street, Suite 500
Indianapolis, IN 46204
(317) 232-4706

Application for the
Indiana Supreme Court



Submitted by
CURTIS E. SHIRLEY

1. Contact/General Information

A. Full legal name and any former names.

CURTIS EDWARD SHIRLEY

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

My wife, AIMEE LYNNE CHAILLE SHIRLEY; we married on October 16, 1999. She works full time taking care of our home and raising our children.

N.B. SHIRLEY (son, age 15)

O.R. SHIRLEY (daughter, age 13)

A.J.C. SHIRLEY (son, age 11)

J.C. SHIRLEY (son, age 10)

C. Business address, email, and telephone number.

Law Office of Curtis E. Shirley
151 North Delaware Street, Suite 1700
Indianapolis, IN 46204
curtis@shirleylaw.net
317.685.6512

D. Attorney number.

15845-49

E. Month and year you were admitted to the Indiana Bar.

June 7, 1991

a. Indicate current law license status, i.e. active/inactive/retired.

Active

b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

I am not a member of the bar for any other State.

I am a member of the bar for the United States Supreme Court, the United States Tax Court, the United States Court of Appeals for the Seventh Circuit, and the United States District Courts for the Northern and Southern Districts of Indiana.

F. Date and place of birth.

October 10, 1960 in Portsmouth, Ohio.

G. County of current residence and date you first became a resident.

Hamilton County, Indiana since July 2005.

2. Secondary Education/Military Experience

A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

I attended the University of Evansville from 1979 to 1982, graduating in 3 ¼ years with a Bachelor of Music Education degree. GPA 3.38, Credits 204.0. Each year the music department and university awarded me scholarships to reduce the cost of tuition. In 1980, I was honored as a featured soloist, playing the *Haydn Trumpet Concerto* with the Evansville Philharmonic Youth Symphony. In 1982, I was a finalist in the *Gumbert's Music Award Competition* concert, playing the *Tomasi Trumpet Concerto*, 1st movement. My trumpet professor, James Bursen, honored me in our playing the *Vivaldi Concerto for Two Trumpets* in his faculty recital. My music fraternity, Phi Mu Alpha Sinfonia, honored me at its National Assembly in 1982 with the National Leadership Award, and elected me as the collegiate representative

to serve a three year term on the National Executive Committee, where I was elected for a three year term on the Sinfonia Foundation Board of Trustees.

B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each application copy.

Attached.

C. If applicable, list any military service.

None.

3. Post-Secondary Education

A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

I attended the Indiana University Jacobs School of Music in Bloomington from 1983 to 1985, graduating with a Master of Music degree in trumpet performance and literature. GPA 3.405, Credits 62.0. Class rank unknown. During my graduate degree in trumpet I minored in law and completed courses at the law school, very much enjoying a class with Professor Patrick L. Baude, who encouraged me to pursue a law degree.

I attended Indiana University in Indianapolis (now the Robert H. McKinney School of Law) from 1988 to 1991, graduating with a Doctor of Jurisprudence degree, *Summa Cum Laude*. GPA 3.646, Credits 86.0. Class rank 1/210 for graduation honors. I served as President of our local chapter of Phi Delta Phi legal fraternity, and later received its International Lloyd Balfour Scholarship. I served as an Associate Editor of our Indiana Law Review, Officer in the Indiana University Bar Association, Instructor in the Dean's Tutorial Society, and the student representative on the Law School Faculty Appointments Committee. In 1990, I

received the Honorable Cale J. Holder Distinguished Scholarship Award, the Harold R. Woodard Fellowship, and was an Indiana University Law Alumni Scholar. In 1990-1991, I served as Chief Justice of the Indiana University Student Senate Court of Appeals (where the Court vacated an election result and ordered a new election of officers).

B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy.

Attached.

4. Employment

A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

Growing up my father, Eldon B. Shirley, a high school industrial arts teacher, taught my brother and me to build and renovate homes and apartments, where we learned carpentry, framing, electrical, painting, plumbing, carpeting, tile, drywall, roofing, and masonry. We worked as a family until his passing in 1998 when we sold all of the rentals.

In the summer of 1983, I worked at International Steel Company in Evansville as a steel burner and machinist in the detail shop.

From 1979-1985 I played Second Trumpet in the Evansville Philharmonic Orchestra, and from 1980-1984 in the Owensboro Symphony Orchestra.

From 1985 to 1988 I served as Director of Bands and Orchestra at Lewisburg High School in Lewisburg, Pennsylvania, part time as Second Trumpet in the Harrisburg Symphony Orchestra, and from 1987-1988 as assistant director of the Williamsport Youth Symphony Orchestra.

During law school, I clerked in the summer months for American General Finance in Evansville, Indiana (1989), International Business Machines in Armonk, New York (1990), and Ice Miller Donadio & Ryan in Indianapolis, Indiana (1991).

After law school I clerked for the Honorable James E. Noland, Judge on the United States District Court for the Southern District of Indiana, 1991-1992, and for the Honorable Daniel A. Manion, Judge on the United States Court of Appeals for the Seventh Judicial Circuit, 1992-1993.

As an attorney in private practice I worked as an associate with the law firm of McTurnan Cadwell & Deer from 1993 to 1994, an associate and later partner in Cremer, Miller & Burroughs from 1994 to 2000, and have managed my own law firm since March of 2000.

B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.

From 1993-1994 my primary client was Shelter Insurance Company where I defended insureds accused of negligence, and represented parties in general business litigation.

From 1994 to present, the majority of my practice involves representation of claimants and heirs disputing inheritances, including will contests, trust contests, guardianship disputes, claims, and control of family owned businesses. I also represent beneficiaries where Courts hold hearings to construe or interpret documents such as deeds, contracts, wills, and trusts. My business litigation and securities fraud practice involves the representation of plaintiffs who may have nothing left if he or she does not succeed.

Since starting my law firm in 2000, I have resolved approximately 120 will and trust contests (representing plaintiffs and defendants), 80 business, contract, and securities fraud disputes (nearly all plaintiffs), 30 contested guardianships, 30 trust disputes, 10 tax cases, 5 personal injury cases, 5 juvenile and adult criminal matters, 4 asbestos cases, 2 divorces, been retained as an expert witness in 10 cases, *e.g.*, Harrison v. Rice, 980 N.E.2d 450 (Ind.App. 2012), and negotiated contracts for actors, agents, PGA professionals, musicians, and business executives.

Since 2000 I have drafted estate and trust plans for over 250 families, and administered over 100 estates. I represent farmers and business owners in a variety of contract matters, including mergers and acquisitions, and serve as trustee of several trusts for my clients and their children.

Former Employers:	Lawrence McTurnan, Charles F. Cremer, Jr.
Former Partners:	Charles F. Cremer, Jr., John A. Cremer
Former Office-mates:	Jeffrey B. Cadwell, William K. Deer, Phillip D. Burroughs, and Stephen K. Miller
Former Associates:	Molly C. Johnson, G. Arlene Kline
Current Office-mates:	Linda S. George, Kathleen A. Farinas, Todd C. Barnes, Ashleigh M. Resetarits, and Sarah E. Broderick.

My practice is mostly referral based, and has given me the opportunity to represent clients in about one half of the Indiana counties:

Adams County:

Hon. Frederick Schurger

Allen County:

Hon. David Avery
Hon. Craig Bobay
Hon. Daniel Heath
Hon. Stanley Levine
Hon. Phillip Houk

Bartholomew County:

Hon. Steven Heinman

Boone County:

Hon. Ora Kincaid
Hon. Matt Kincaid
Hon. Stephen David

Brown County:

Hon. Judith Stewart
Hon. Roderick McGillvray

Dearborn County:

Hon. James Humphrey
Hon. G. Michael Witte

Decatur County:

Hon. John Westhafer

Delaware County:

Hon. Marianne Vorhees

Floyd County:

Hon. J. Terrence Cody

Franklin County:

Hon. J. Steven Cox

Fulton County:

Hon. Douglas Morton

Gibson County:

Hon. Jeffrey Meade

Grant County:

Hon. Mark Spitzer
Hon. Jeffrey Todd

Hamilton County:

Hon. Judith Proffitt
Hon. Jerry Barr
Hon. Steven Nation
Hon. William Hughes
Hon. J. Richard Campbell
Hon. David Najjar

Hancock County:

Hon. Ronald Gottschalk
Hon. Richard Culver

Hendricks County:

Hon. Mary Comer
Hon. Robert Freese
Hon. Karen Love
Hon. Mark Smith

Henry County:

Hon. Michael Payton

Howard County:

Hon. Dennis Parry
Hon. Lynn Murray

Huntington County:

Hon. Thomas Hakes

Jackson County:

Hon. Richard Poynter

Jasper County:

Hon. James Ahler

Johnson County

Hon. James Coachys
Hon. K. Mark Loyd
Hon. Kevin Barton
Hon. Cynthia Emkes
Hon. Marla Clark

Kosciusko County:

Hon. Rex Reed
Hon. Michael Reed
Hon. David Cates

Lake County:

Hon. James Richards
Hon. Lorenzo Arredondo
Hon. George Paras
Hon. Calvin Hawkins
Hon. George Ivancevich
Hon. Itsia Rivera

Lawrence County:

Hon. Andrea McCord

Madison County:

Hon. Dennis Carroll
Hon. Thomas Newman
Hon. Rudolph Pyle
Hon. David Happe

Marion County:

Hon. Charles Deiter
Hon. Tonja Walton Pratt
Hon. Gerald Zore
Hon. John Price
Hon. Stephen Eichholtz
Hon. Theodore Sosin
Hon. William Mercury
Hon. Louis Rosenberg
Hon. Kenneth Johnson
Hon. Thomas Carroll
Hon. Michael Keele
Hon. Cynthia Ayres
Hon. Timothy Oakes
Hon. Robyn Moberly
Hon. David Dreyer
Hon. James Joven
Hon. Heather Welch
Hon. Caryl Dill

Monroe County:

Hon. Viola Taliaferro
Hon. E. Michael Hoff
Hon. Stephen Galvin

Montgomery County:

Hon. Heather Dennison

Morgan County:

Hon. G. Thomas Gray

Newton County:

Jeryl Leach

Ohio County:

Hon. James Humphrey

Owen County:

Hon. Frank Nardi

Porter County:

Hon. Mary Hopper
Hon. Katherine Forbes

Posey County:

Hon. James Redwine

Putnam County:

Hon. Matthew Headley

Rush County:

Hon. Barbara Harcourt
Hon. David Northam

St. Joseph County:

Hon. Peter Nemeth

Shelby County:

Hon. Charles O'Conner

Vanderburgh County:

Hon. Scott Bowers
Hon. Mary Lloyd
Hon. Brett Niemeier
Hon. Wayne Trockman

Vigo County:

Hon. David Bolk

Wabash County:

Hon. Robert MacCallen

Warrick County:

Hon. Greg Granger
Hon. Jacob Winsett

Wayne County:

Hon. Gregory Horn

White County:

Hon. Robert Thacker

Whitley County:

Hon. James Heuer

I have represented clients in cases before judges on the United States District
Courts, including:

Hon. Sara Evans Barker

Hon. Gene Brooks

Hon. S. Hugh Dillon

Hon. William Lee

Hon. Larry McKinney

Hon. John Tinder

Hon. Richard Young

Hon. Tim Baker

Hon. William Hussmann

I have argued cases before panels on the Seventh Circuit in Chicago and the Court of Appeals in Indianapolis.

5. Trial/Judicial Experience

A. Describe the extent of your jury trial experience, if any.

In *Bertha McKinster v. Roy Strong*, Marion County Cause No. 49D13-0803-PL-010480, I represented the plaintiff in a Jury trial which lasted one week and the Jury returned a verdict for my client in the amount of \$643,200.00, plus attorney fees, affirmed on appeal, 958 N.E.2d 498 (*Ind.App. 2011*). Hon. Timothy W. Oakes, presiding.

In *Larry Long v. Terryl Long*, St. Joseph County Cause No. 71J01-0903-ES-099, we tried the case for one week and it settled several hours after the Jury began deliberations. Hon. Peter J. Nemeth, presiding.

In *the Guardianship of Josephine Hickman*, Monroe County Cause No. 53C07-0108-GU-060, we tried the case for one week before an Advisory Jury to conclusion, see 805 N.E.2d 808 (*Ind.App. 2004*). Hon. Viola J. Taliafarro, presiding.

In *Maxine Hinds v. Ronald Mason*, Franklin County Cause No. 24C01-0502-EU-06, we began the Jury trial and the case settled when I called my first witness. Hon. J. Steven Cox, presiding.

In *Patrick Pio v. Judith Schroff*, Allen County Cause No. 02D01-1105-PL-0195, we began the Jury trial and the case settled the first day of trial. Hon. Frederick A. Schurger, presiding.

In *James Arthur v. Michael Ward*, Floyd County Cause No. 22C01-1002-PL-0343, we began the Jury trial and the case settled the first day of trial, on remand from the court of appeals, 962 N.E.2d 164 (*Ind.App. 2012*). Hon. J. Terrence Cody, presiding.

In the Estate and Trusts of Leah Yeley, Grant County Cause No. 27D01-0711-ES-09, the case settled with the prospective jurors in the courtroom. Hon. Jeffrey D. Todd, presiding.

B. Describe the extent of your bench trial experience, if any.

Since 1994, I have appeared in Court for contested hearings and trials involving the offering of evidence on hundreds of occasions. To follow is a condensed list of the more significant matters.

In the Charitable Trust of Mabel Hendrickson, Johnson County Cause No. 41D01-9407-TR-86, my very first contested hearing - I represented Shiloh Community Church on the construction of a Will, where opposing counsel was a very experienced attorney, Melvin Fredbeck.

Donald Hoffman v. Mary Peckens, Madison County Cause No. 48D03-9303-CP-0236, my first significant trial, where I first chaired a week long bench trial on a will contest with Hon. Rex Reed as special judge, where opposing counsel was a very experienced attorney, Alan Loble, of Ice Miller.

IRS v. Albin Turk, United States Tax Court in Indianapolis, Case No. 8723-03, we concluded the trial on a disputed income tax assessment and the Judge proffered an acceptable settlement. My client could not hear, which required extensive accommodations.

In the Marriage of Lyn Shaughnessy and Donald Shaughnessy, Boone County Cause No. 06D01-1007-DR-0399, trial on dissolution matters, affirmed 965 N.E.2d 773 (Ind.App. 2012).

Wehr v. Price, 980 N.E.2d 450 (Ind.App. 2012), affirmed a Wayne County case concerning breach of contract and tortious interference with an inheritance.

Jack Zirkle v. Delores Dearing, Henry County Cause No. 33D01-0604-ES-022, trial on construction and interpretation of a Will, reversed 900 N.E.2d 84 (Ind.App. 2008).

Estate of Kenneth Starkey, Marion County Cause No. 49D08-9003-ES-0474, United States District Court, Cause No. IP98-0343-C (M/S), hearing on the construction of language in a Will which controlled whether the decedent's estate would receive a charitable deduction, reversed 223 F.3d 694 (7th Cir. 2000).

Saler v. Irick, 800 N.E.2d 960 (Ind.App. 2003), appeal from Marion County involving issues of personal jurisdiction over out of state heirs inheriting non-probate property.

Paula Wagner v. Roy Spurlock, Lake County Cause No. 45C01-9908-CP-02000, trial on enforcement of settlement agreement, affirmed 803 N.E.2d 1174 (Ind.App. 2004).

Keltner Properties v. Jones, Hamilton County Cause No. 29D03-0802-PL-0268, trial on injunction and eviction.

Buztronics v. James Sullivan, Marion County Cause No. 49D07-0212-PL-02173, trial on an injunction and non-compete agreement.

Amy Schlichter v. Susan Shepard, Wabash County Cause No. 85C01-0512-PL-0635, trial on validity of settlement agreement, settled on appeal.

Estate of Richard Watson, Madison County Cause No. 48D03-0001-ES-05, week-long trial on breach of fiduciary duty, conversion, and tortious interference against second spouse, affirmed on appeal, 48A02-0304-CV-0317 (Ind.App. 2004).

Estate of Charles Merlau, Hancock County Cause No. 30A01-1304-EU-0166, trial on objections to a final accounting, affirmed 997 N.E.2d 1184 (Ind.App. 2013).

Estate of Glendon Small, Howard County Cause No. 34D01-0001-ES-01, hearings on removal of executor, waiver of privileges, and to enforce settlement.

Estate of Reginald Griffey, Johnson County Cause No. 41D01-0411-EU-0486, trial on objections to a final accounting.

Estate of June Berghoff Miller, Allen County Cause Nos. 02D01-0207-EU-0618, 02D01-0210-PL-0499, 02D01-0210-TR-016, trial on appointment of special administrator.

Estate of Schoenenberger, Lake County Cause No. 45C01-0303-ES-0113, trial on removal of personal representative and appointment of special administrator.

Estate of Ronald Austgen, Lake County Cause Nos. 45D02-1109-ES-046 and 45D02-1112-PL-076, trial on validity of premarital agreement and removal of fiduciaries.

Estate of Robert Kelley, Marion County Cause No. 49D08-0605-EU-019264, the Court appointed me special administrator in an estate with over one hundred thousand dollars missing, which co-counsel and I substantially collected from a prior executor.

Estate of Robert Milos, Porter County Cause No. 64D01-1203-PL-02287, 64D02-1112-ES-011835, 64D02-1201-TR-0946, several hearings to dismiss will contest and various claims.

Guardianship of Jimmie Yeley, Grant County Cause No. 27C01-0007-GU-059, trial on appointment of guardian, affirmed 942 N.E.2d 148 (Ind.App. 2011).

Guardianship of Lula Robinson, Madison County Cause No. 48D01-0607-GU-0139, trial on guardianship issues, affirmed 908 N.E.2d 360 (Ind.App. 2009).

Guardianship of Harry Tidler, Hendricks County Cause No. 32D01-1011-GU-099, trial on various guardianship issues.

Guardianship of Juanita Laurie, Brown County Cause No. 07C01-0508-GU-08, hearing on dismissal of guardianship case and removal of *lis pendens* notice.

Guardianship of Dorothy Horn, Marion County Cause No. 49D08-0611-GU-047596, trial on guardianship issues.

Guardianship of Anton and Darion Johnson, Marion County Cause No. 49D08-0208-GU01941, trial as to who would raise two minor children whose mother, a Marine, passed away from brain cancer.

Guardianship of George Bradshaw, Warrick County Cause No. 87D01-0808-GU-07, trial on guardianship issues.

Marsha Cummins v. Thomas Zakrowski, St. Joseph County Cause No. 71J01-1101-GU-0211, trial on heir's right to participate in guardianship case, affirmed 71A03-1105-GU-0259.

C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

I serve as a Judge *pro tempore* when called upon in the Marion County Superior Court, Civil Division, and Probate Division. Especially when judges have an unexpected absence, many know to call me as my office is only a block away. Judges Cynthia Ayres, Kenneth Johnson, Charles Deiter, Tonja Walton Pratt, and Gerald Zore have appointed me. Most days involve ruling on routine orders, presiding over innocuous hearings, opening estates, probating Wills, and answering questions from attorneys who call. Two cases come to mind.

I presided over a short bench trial where a father had given his daughter a substantial gift – a deed to his home. After a falling out, the daughter filed a complaint to evict her father; he countered to rescind the deed. After hearing the evidence, I ordered the deed reformed so the father retained a life estate and the daughter inherited the remainder. A month later I understood how trial judges feel when there is no appeal. (You want to make the right decision; but you also want the parties and their attorneys to agree it's the right decision.)

I presided over a two-day trial where a prior Court had awarded custody of minor children to the father who later moved to Tennessee. A year later the mother had successfully completed a drug rehabilitation program and gained employment. She petitioned for custody. The father did not object to mother visiting; but he wanted the children to stay in Tennessee. After hearing the evidence and interviewing the children in chambers, I ruled from the bench and denied any change in custody. I recall how the mother appreciated my lengthy comments on why I ruled in such a way and options they might consider.

Although not technically judicial experience, I have served on a few occasions as a hearing officer for the Indiana State School Music Association (ISSMA). When music judges assess penalty points at competitions, especially marching band competitions, the appeal hearing is very much a trial. Attorneys routinely represent schools and band directors. At the conclusion of the hearings I write rather detailed findings in the hope the parties (and their attorneys), the parents, and the student musicians understand and accept the final, usually unappealable result.

I have not presided over a Jury trial as a Judge.

6. Professional Experience

Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.

A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

Libby Christianson v. Dorothy Eads, Kosciusko County Cause No. 43D01-1503-PL-043, filed November 2, 2015 (memo in support of motion for partial summary judgment – matter is pending).

In the Estate of Charles Merlau, Hancock County Appellate Cause No. 30A01-1304-EU-0166, affirmed 997 N.E.2d 1184 (Ind.App. 2013) (appellant brief filed on July 15, 2013).

Demaris Wehr v. Thomas Price, Wayne County Cause No. 89A04-1202-PL-076, affirmed on appeal 980 N.E.2d 450 (Ind.App. 2012) (appellant brief filed September 2, 2012).

Jack Zirkle v. Delores Dearing, Henry County Cause No. 33D01-0604-ES-022, reversed on appeal 900 N.E.2d 84 (Ind.App. 2008) (appellee brief filed August 11, 2008).

In the Matter of the Estate of Richard C. Watson, Sr., Madison County Cause No. 48D03-0001-ES-05, affirmed on appeal, 48A02-0304-CV-0317 (appellant brief filed February 20, 2004).

B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

I recall attending two meetings to vote on proposed legislation in conjunction with annual meetings of the Indiana State Bar Association (ISBA); but I have not contributed significantly to the process.

I participated in the legislative process over the past twenty years through attorney James W. Martin of Merrillville, Indiana. For 18 years Mr. Martin served on the Governor's Probate Code Study Commission (now disbanded), and for 23 years on the Probate Review Commission which is part of the Probate, Trust, and

Real Property Section of the ISBA. At his request I reviewed many of the proposed changes to the Probate, Trust, and Guardianship Codes. A few years ago we spent a considerable amount of time discussing the enactment and fixes to the transfer on death statutes.

At his request, just this week I emailed to Mr. Martin suggested language to change Indiana Code Section 29-1-10-14 as a response to *Stibbins v. Foster*, 2015 WL 5968748 (*Ind.App. October 14, 2015*), which he intends to discuss with the Commission later this month:

“In any litigation involving an action to resist the probate of a will, a will contest, trust contest, claim for breach of contract to devise, petition to determine heirship, petition to construe, accountings and objections thereto, or any other matter which concern the distribution of a decedent's probate and non-probate property, all parties who defend or prosecute the matter in good faith, whether or not successful, shall be allowed out of the estate all reasonable attorney fees, expenses, and costs. This section shall not apply to defendants where the estate has filed an action to collect probate property, and shall not apply to a claimant who has filed an action against the estate to collect a debt.”

C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

On several occasions I spoke to the Indianapolis Law Club, one of which addressed my article titled “*A Report on the Costs of Justice*” in 2008.

Since 1997 the Indiana Continuing Legal Education Forum (ICLEF) has asked me to chair probate litigation seminars or teach approximately one seminar per year on estates, trusts, guardianships, procedure, and evidence topics . Some of my more extensive articles include “*Will Contests*” (2012), “*The Legacy of Lawrence W. Inlow*” (2004), “*Evidentiary Matters in Estate, Trust and Tax Litigation*” (2002).

The Indiana State Bar Association honored me in 1997 by publishing my article titled "*Tortious Interference with an Expectancy*", in *Res Gestae*, Vol.41 No.4 (1997), which the Indiana Court of Appeals cited as authority in *Keith v. Dooley*, 802 N.E.2d 54 (Ind.App. 2004).

D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

1.

In 1995 I represented a patient with severe lupus. Over the course of many years her health insurance company had paid \$2.5 million for her to receive food and water intravenously. The policy had a cap of \$3 million, after which the State of Indiana would cover all medical expenses. Because of liver damage, her doctors decided to insert a "J Tube" so she could receive nutrition directly into her stomach.

The insurance company refused to pay for nutrition through a "J Tube", pointing to policy language to argue a "J Tube" was a nutritional supplement. The medical providers began collection proceedings, including the threat of foreclosure. Through my efforts the insurance company paid all outstanding bills and the \$500,000 remaining policy limit in exchange for a release. The State of Indiana then covered all future medical expenses, and my client kept her home.

I believe this legal matter significant because it taught me early in my career how attorneys can resolve cases quickly, without litigation. We can resolve the most significant of disputes if the parties have the right attorneys. One of my role models, attorney Charles W. Symmes, taught me this lesson well, as we resolved disputes without filing complaints. Even where complaints are filed, mediation (as early as possible) reduces attorney fees, expenses, and the intangible costs of litigation.

2.

In 2009 after her husband went into a nursing home, an elderly woman consulted with an attorney for Medicaid planning. Unfortunately, the client's financial planner had his own ideas. He converted all investments to cash and in the name of Medicaid planning purchased rental real estate. The appraisals were fraudulent, a manager kept the rent, and sellers of the real estate either promised repairs never to be performed, or accepted kickbacks. Of the hundreds of thousands lost, much was recovered from insurance companies. Trying to collect more has taken years, while most of the defendants filed for bankruptcy. See McKinster v. Strong, 958 N.E.2d 498 (Ind.App. 2011).

As another example, in 2003 an elderly woman appointed one of her daughters as attorney in fact (POA). The POA started to day-trade the investment account, which went from over one million dollars to \$35,000 in just a few months. The matter settled by the daughter paying over most of her property and disclaiming any inheritance.

I believe this type of legal matter significant because of the countless victims of investment fraud and the increase of elder abuse in Indiana. After saving for a lifetime, all can be lost in a single "Ponzi" scheme, or misplaced reliance on a caretaker or relative. Attorneys have to act quickly to trace the property, and freeze accounts. If the attorney is not successful, an elderly person may lose his or her home and live in poverty.

3.

In 2002, a Mother of two young children died of a brain tumor while serving in the Marine Corp. She had requested her brother raise the children. The natural father lived in California, had rarely visited his children, and owed significant child support. As the attorney for Mother's estate, I sought to have the trial court honor her wishes.

I was involved in a similar case in 2010, only this time as a judge *pro temp*. Due to mother's drug addiction, a Court had awarded the father temporary custody; he and the children now lived in Tennessee. After the mother completed a drug treatment program and obtained a steady job, the Court heard cross petitions for permanent guardianship.

I believe this type of legal matter significant because these cases illustrate the incredible power of a state trial court judge in the exercise of his or her discretion. As an attorney, we have the responsibility to present the facts and cite the pertinent law so a client's case is admissible and admirable. Judges have the responsibility to use their judgment to find the truth and apply the law to arrive at the best result. The quality of the attorneys' representation, and the judge's knowledge, wisdom, and understanding play important roles in resolving disputes, which in the above cases involved children too young to have a voice in the process.

4.

My career has involved many will and trust contests with significant amounts in controversy – Estates of Ronald Austgen, Gladys J. Ender, Elizabeth Gilbert Fortune, Josephine A. Hickman, Lawrence W. Inlow, Polikarp Mankow, June

Berghoff Miller, Margaret J. Milos, John A. Schoenenberger, Leah Yeley. How much a decedent owned at his or her passing makes for publicity, but has less to do with the significant legal issues involved.

Will and Trust contests have much in common: Decedents spend a lifetime accumulating wealth. Then children are cut out in favor of a caretaker; or children treated differently; the relationship between children and step children may change after their parents pass away; even attorneys and close advisors try to inherit from clients.

Everyone agrees decedents have every right to determine who inherits their estate. Yet parties may dispute the decedent's soundness of mind, whether he or she properly executed a particular document, was a victim of undue influence, or how to construe certain words. The decedent's physicians, attorneys, friends, and expert witnesses all may have different opinions.

This type of litigation is difficult to resolve from the outset because the only witness whose opinion truly matters (the decedent) is not alive to testify. The settlement of such cases resembles an ice cream pie: the sooner the parties decide how to slice it, the more the heirs inherit; otherwise attorney fees melt the pie. Mediation thus plays an important part in resolving the financial issues, and getting beyond the litigation so families can heal and hopefully not be divided for generations to come. Heirs fighting over an inheritance and who hesitate to settle need only read Charles Dickens' *Bleak House*.

I believe this type of legal matter significant because any of the hundreds of cases I've been involved in illustrate the extensive amount of knowledge and

experience required of attorneys who practice in this area. We need to have a thorough understanding of the trial rules, evidence code, probate code, trust code, guardianship code, income tax code, estate and gift tax codes, how attorneys should have drafted the disputed documents in the first place, and how to try a case. The knowledge and experienced I gained in litigating these types of cases have made me a much better attorney when drafting documents for future clients – to ensure their wishes are respected and the risk of litigation reduced.

5.

I feel extremely honored when attorneys refer their clients to me for help; when attorneys, law professors, and judges ask me to draft or review their own estate plans, or represent members of their families. But my greatest joy and challenge arises when I'm asked to represent charities which impact thousands of people.

In *Estate of Mabel Hendrickson*, *supra*, I represented Shiloh Community Church. Mabel had established a trust for the benefit of her Church; but the trustee (also the drafting attorney) thought he could distribute over a million dollars to any charity of his choice. It took a trial to restore the Church as the sole beneficiary – which has impacted all of its members, then and now.

In *Estate of Sally Reahard*, Cause Nos. 49D08-0307-EU-01672, 49D08-0503-TR-011979, the decedent named my client, the Visiting Nurse Association of Central Indiana, as a beneficiary. There was a dispute over whether a subsequent owner of a VNA subsidiary (Community Home Health Services) would receive the funds, which we resolved by agreement. What VNA received from the Estate has benefited an innumerable number of patients who need nursing services at home.

In *Indiana State School Music Association (“ISSMA”) v. Indiana Association of School Principals (“IASP”)*, Cause No. 49D01-9907-CP-01022, ISSMA had an endowment fund of approximately \$500,000.00 when it merged with IASP in the 1970s. In 1999 the IASP attempted to claim ownership of the ISSMA endowment. I represented ISSMA and filed for “divorce”. Within days ISSMA reincorporated and secured its name with the Indiana Secretary of State, filed for copyright and trademark protection of its materials and logos, and the parties settled on the eve of an injunction hearing. Each year thousands of high school musicians benefit from ISSMA, from concert and marching band competitions, to solo and ensemble contests.

I believe this type of legal matter significant because these cases make the practice of law a mission, a passion, a gift, a blessing, an opportunity, a privilege, a responsibility, a great honor ... anything but a job.

7. Efforts to Improve the Legal System, Administration of Justice, or Society

A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

I serve on the Board of Directors of the Indianapolis Legal Aid Society, as a member (1995 to present), and former president (2002-2008). During my tenure as president, the ILAS increased its board membership to include a Justice on the Indiana Supreme Court, a Judge on the Indiana Court of Appeals, and many highly respected attorneys, trial court judges, and community leaders.

ILAS substantially increased fund raising, diversified our board membership to include minorities, diversified our funding base, increased grant applications, increased recruitment and coordination of volunteers, established a six month reserve in the event of unforeseen problems, developed a website, established a charitable supporting Foundation for major donors, and made efforts to collaborate with other non-profit social service organizations.

I have been an active part of the ILAS leadership team which organizes annual fundraising dinners (raising over \$40,000), annual fundraising campaigns (raising over \$150,000), and annual continuing legal education seminars (raising over \$30,000).

Starting in 2013, I founded and chair an annual continuing legal education program for ILAS. The faculty includes current and retired Justices of the Indiana Supreme Court, Judges on the Indiana Court of Appeals, distinguished attorneys, law school deans, professors, and the very popular Gary Varvel of the Indianapolis Star. We appreciate so many of the legal organizations in Indianapolis joining together to sponsor the event – the ISBA, IBA, ICLEF, IBJ, IU Law School, *Indiana Lawyer* magazine, *Res Gestae* magazine, and the Indiana Coalition Against Domestic Violence, along with numerous law firms.

This program is typical of many meetings I have chaired for organizations through the years: developing agendas, working within budgets, picking the best locations, negotiating contracts for room rentals, food, beverage, audio/visual, communicating with speakers, using every available media for promotion and publicity, soliciting sponsorships, applying for accreditation, organizing the written

materials, power point presentations, computer videos, screens, and floor plans.

There is a great joy when hundreds of people attend, and keep attending year after year, all in support of the ILAS and our mission.

As an attorney in private practice, my primary focus is to help one person or organization at a time. Most of my clients have never met with an attorney before and have never been in a courtroom. Many have just lost a parent or loved one. After an initial investigation, we first address a client's options, the risks involved with each choice, and the potential costs. The goal is to honor and respect the wishes of the deceased person (if he or she was of sound mind and free from undue influence).

Teaching attorneys in seminars (ICLEF, ILAS, the Indianapolis Law Club), and teaching law students (at IU) gives me the opportunity to write articles and speak on a variety of topics to improve our legal system. Laws involving Deeds, Gifts, Trusts, and Wills have not changed much for centuries. However, with our population aging, these past few years have seen remarkable changes. Guardianship Courts can now re-write estate plans. Land owners can sign deeds transferring property at their passing, yet also reserve the right to change the deeds at any time.

My website, www.shirleylaw.net, is an additional tool which allows attorneys and lay persons access to articles and sample documents. I have posted articles on confidential privileges, removing executors, appointing special administrators, the tax aspects of contested estates, tips for offering evidence, how to file trust contests, will contests, tortious interference with an expectancy, and the standards of soundness of mind.

I wrote a public service article titled *"Is the Roth IRA a Good Idea?"* which was published by *Indy's Child* magazine, December 1998, p.30.

For my contributions preparing students to take the bar examination, the Indianapolis Bar Association awarded me the *Dr. John Morton-Finney Excellence in Legal Education Award* in 2002. For my contributions in support of the legal profession the Indiana State Bar Foundation named me a *Patron Fellow* and the Indianapolis Bar Association named me a *Distinguished Fellow* in 2004. For my contributions to the administration of justice the Indiana State Bar Association awarded me the *Pro Bono Publico Award* in 2005.

My fellow attorneys and Martindale Hubbell rated me "AV" since 1997. After only four years in private practice, I was named to the *Bar Register of Preeminent Lawyers* (awarded to top five percent of U.S. lawyers).

In 2006 I formed a company called *The Legal Word Corporation*. I wanted to create a software program for *Microsoft Word* which resembled the legal version of *Word Perfect*. For three years I worked with software engineers, investors, drafted business plans, and we went through nearly thirty versions, with regular beta testing. Although in the end we did not launch the product or succeed in finding a buyer, I learned a great deal about programming, and working with constituents in the computer industry.

B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

I have spoken to the Indianapolis Law Club about our *United States Constitution, Bill of Rights, and Declaration of Independence*, tracing key provisions to the significant historical foundations in England centuries earlier. Our Indiana Constitution has similar significant history. Understanding history and the specific language adopted by our founders say much about how they wanted our laws interpreted, and how the Indiana Supreme Court should apply them today.

I have spoken to the Indianapolis Law Club on the incredible increase in costs of being a plaintiff or defendant in Indiana. How our system of justice favors the wealthy. How our profession is now a business. I have recommended publicly in speeches and privately with those involved in the Indiana Supreme Court's commissions and committees ways to reduce the cost of justice to clients, and more quickly resolve cases.

I am active in Free Masonry. As a member of Mystic Tie Lodge #398 (various offices for five years and then Worshipful Master in 2000-2001), we support members in need with particular emphasis on widows and orphans, and help maintain the Masonic Home in Franklin. I also assist the Grand Lodge Scholarship Board, which awards scholarships to hundreds of family members each year.

As a member of the Indianapolis Valley of the Scottish Rite (various offices for five years and then Chairman of the Board in 2012-2013), we support members in need with particular emphasis on building character, and help maintain our

magnificent Cathedral. The Indianapolis Valley had its most members in 1982, approximately 32,000, and has since diminished to approximately 11,000. During my term as chairman has been the only year since 1982 we gained more members than we lost.

In September 2015 I received Scottish Rite's highest honor, the Sovereign Grand Inspector General, Thirty Third degree (33°), and became an Honorary Member of the Supreme Council for the Northern Masonic Jurisdiction of the Ancient Accepted Scottish Rite.

Since 2013, I serve on the Board of Directors of one of the Scottish Rite's important charities, the Indianapolis Children's Dyslexia Center. We supervise a foundation of approximately \$2,000,000.00 and each year raise approximately \$100,000.00 to provide free tutors to children who have difficulty reading.

I am a member of the Murat Shriners, not an officer, but I do help raise funds for the Children's hospitals and burn centers.

C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

Since 1995, I have served as Chairman of the Board of Directors of Extended Hand Prison Ministries. We raise approximately \$100,000.00 each year to employ a full time chaplain to visit seven prisons each week, which involves Bible studies, prayer, counseling, and baptisms. We help arrange Church homes for inmates upon their release, and for each inmate to have a picture Bible appropriate for his or her reading level. For a few years I volunteered to lead Bible studies at the Indiana Boys

School (ages 14-18) and the Delaware Street Juvenile Facility (ages 12-15). I have also participated in revivals at the Marion County Juvenile Detention Facility.

I have served on the Planned Giving Councils of the United Way of Central Indiana (2004-2013) and University of Evansville (2005-2014). I drafted binding pledge forms which the organizations use for those who wish to donate, hosted lunches and spoken on planned giving and estate planning at events and meetings.

My wife Aimee and I fund the *Curtis E. Shirley Tax Awards*, which provides two scholarships annually at the Indiana University Robert H. McKinney School of Law as selected by Professor Lawrence A. Jegen, III, and the *Curtis E. Shirley Trumpet Faculty Awards* which provides three scholarships annually at the Indiana University Jacobs School of Music as selected by each of the three trumpet professors.

As a leader in my music fraternity, Phi Mu Alpha Sinfonia, in 1983 I founded the Collegiate Province Representative (CPR) Convocation held each year from December 28 to January 2. All of my successors who chair the CPR Council have continued this convocation. An average of fifty brothers from all over America meet at the headquarters to learn their new role as an officer. They regularly invite me to speak on leadership development, and the elimination of hazing in our 247 chapters among 9,000 collegiate members.

As province governor of chapters in Indiana and Illinois, I hosted two Midwest regional conventions in Indianapolis, where hundreds from all over America spent several days at the Adams Mark Hotel at the airport. I coordinated travel arrangements for special guests, keynote speakers, developed the agendas,

hired workshop consultants and presenters, negotiated contracts for hotel rooms, meeting space, food, and supervised a staff of 12 to coordinate everything.

D. Describe the nature and extent of any *pro bono* legal services you have contributed.

Since 1994 the Indianapolis Legal Aid Society asked me to represent qualified low income persons who need representation in contested probate matters, or where the ILAS attorneys have a conflict of interest.¹ On average this has involved approximately two persons a year who need to file claims, transfer a decedent's real estate, obtain guardianship over an elderly parent, or where the dispute is outside the area of expertise of staff attorneys and referral attorneys.

As to specific examples, (1) an attorney with ILAS represents a mother who had a drug problem and could not care for her daughter. The grandparents stepped in and accepted custody of the child. Unfortunately, the grandparents divorced. I represent the grandmother who wants primary custody of her grandchild, pending in Marion County Cause No. 49C01-0812-JP-054791.

(2) ILAS asked me to represent a young girl whose father passed away. The bank foreclosed on the house and she did not have sufficient income to refinance the home. I successfully extended the time for her to stay in the house until the equity ran out. This case is an example of the plight of the working poor. My client worked

¹ Every year the Indianapolis Legal Aid Society makes over 14,000 appointments, meets with over 8,000 clients, and averages over 2.5 court appearances per day. It is the busiest law firm in America, setting a national standard of excellence. I have great respect for those who contribute and support the ILAS. Our attorneys, staff, board members, and donors, especially the United Way of Central Indiana, help administer justice to thousands of people. ILAS has also received the *Freedom Works Award* from the United States Congress.

part time as a hairdresser, but had no money to hire an attorney. Because her father owned real estate she could not qualify for an ILAS attorney.

(3) ILAS referred a complicated estate litigation matter which co-counsel and I resolved over the course of a year (2012-2013), *pro bono*, which ordinarily could have cost \$100,000.00 in attorney fees. For either of us to get paid would have caused our client to lose her home.

Since 1994 I have represented many churches, religious organizations, and charities, at times charging only expenses or a nominal fee.

Because many financial institutions no longer serve as a fiduciary for estates and trusts that involve small amounts, some of my clients ask me to serve in that role, which I do for expenses or a nominal fee. Examples include serving as trustee of life insurance trusts, minor's trusts, special needs trusts, charitable remainder trusts, and testamentary trusts.

The Marion County, Indiana probate court on occasion has appointed me as a special administrator, or guardian *ad litem* where no fee is expected.

E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

The Indiana University Robert H. McKinney School of Law at Indianapolis employed me as an adjunct professor of law where I have taught "Probate Litigation" (2007 and 2008), and "Trusts and Estates" (2009).

Since 1997 the Indiana Continuing Legal Education Forum (ICLEF) has asked me to chair probate litigation seminars or teach at least one seminar per year. In recent years ICLEF has asked me to organize more seminars as chairman than as

a speaker. As a speaker, my presentations have required me to write articles which are listed in response to question 6(c), *supra*, or on my website.

Starting in 2009, and from 2011-2015, I founded and chaired an annual program for ICLEF on estate, trust, and guardianship topics which is one of the most well attended ICLEF events of the year (frankly because it's the last live seminar of the year, held a few days before Christmas). The faculty includes many of the foremost experts in our field.

From 2001-2005 I wrote the outline and taught "*Income Tax*" for the Indianapolis Bar Association Bar Review Course, and from 1994-1996 wrote the outline and taught "*Administrative Law*" for the Professional Education Corporation founded by Professors William Harvey and Lawrence Jegen.

8. Memberships and Other Activities

A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

Member of the Seventh Circuit, Indiana State, and Indianapolis Bar Associations, American Association for Justice, Indiana Trial Lawyers Association, the Estate Planning Council of Indianapolis, and the Former Federal Law Clerks Society. I have not held any offices. These organizations serve to better our profession, provide resources, develop skills, and encourage collegiality among bench and bar.

I am a member of Phi Mu Alpha Sinfonia professional music fraternity (1979 to present), and served as Chapter President (1981), Collegiate Province Representative (1981-1982), National Executive Committeeman (1982-1985),

Trustee of the Sinfonia Foundation (1982-1985), member of the Commission on Standards (1988-1991), Chairman of the Centennial Songbook Committee (1991-1994), and a Province Governor (1994-1997). The fraternity's purpose is to foster mutual welfare and brotherhood and to advance American music.

B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

Indianapolis Legal Aid Society

Indianapolis Legal Aid Foundation

Extended Hand Prison Ministries

Indianapolis Childrens Dyslexia Center

United Way of Central Indiana Panned Giving Council

University of Evansville Planned Giving Council

Mystic Tie Lodge #398

Indianapolis Valley of the Scottish Rite

Murat Shrine Temple

Phi Delta Phi legal fraternity

Phi Mu Alpha music fraternity

Dates, descriptions, purposes, and my involvement in these organizations are listed in response to question 7, *supra*.

In addition, I am a member of First Christian Church in Evansville, and our family are members of Second Presbyterian Church in Indianapolis.

C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

I have listed these organizations, *supra*. Free Masonry, the Scottish Rite, and Phi Mu Alpha Sinfonia restrict membership to men. I have not made any effort to change this. I have made efforts to eliminate any discrimination on the basis of race. I appointed the first African American who will chair the board of the Scottish Rite in May, and have actively supported African Americans and gay men in leadership roles in our music fraternity.

I am a member of Wolf Run Golf Club, which started as men only in 1989; and which changed this restriction and admitted women in approximately 2006.

D. Describe your hobbies and other leisure activities.

Aimee and I raise four amazing and wonderful children. We enjoy playing many sports, including basketball, football, soccer, swimming, snow skiing on spring breaks, horseback riding, bicycling, dodge ball at SkyZone, climbing at Hoosier Heights, and we also enjoy reading.

My personal interests include walking and regular exercise, golf, music concerts, cooking, photography, chess, pheasant hunting in South Dakota, rabbit hunting in Crawfordsville, water skiing at Dale Hallow, fishing at the homeplace in Evansville, and woodworking. I rarely watch television.

On average I read one book a month, and my favorite authors include Steve Berry, Dan Brown, Tom Clancy, Charles Dickens, Umberto Eco, Greg Isles, James Joyce, David McCullough, Mark Twain, and Oscar Wilde. My favorite Bible commentary authors are Charles H. Spurgeon, John R.W. Stott, and Warren

Wiersbe. Currently I'm reading Michael Bamberger's *Men in Green*, and Bob Buford's *Half Time*.

I play trumpet occasionally, most recently this past July playing principal trumpet at Phi Mu Alpha's National Assembly in New Orleans under the direction of David Holsinger.

I enjoy speaking at seminars to collegiates, approximately once per year. This past year I gave a master class to the trumpet students in Bloomington on how to better handle performance anxiety, a national workshop in Evansville on leadership development, and in New Orleans on how to be a man of the highest type.

Although they are probably not considered hobbies or leisure activities as the application asks, perhaps this is the place to mention how my Faith in God is the most important part of my life. Aimee and I spend a considerable amount of time praying with our children, and their memorizing Bible passages. Each from memory can recite the Lord's Prayer, Psalm 23, the Ten Commandments, Apostle's Creed, fruit of the Holy Spirit, Prayer of Jabez, and many other verses.

We support WyldLife and Young Life, faith based organizations for middle and high school students, Wheeler Mission, Outreach Ministries, Lilies of the Valley Church, Emerging Eagles, and value our relationships with many of the leaders in these wonderful organizations. Words cannot express the joy we feel as a family to help Pastor Toni Bunch have a van to transport children to and from her free day care for mothers who need to work, to provide annual Thanksgiving dinners and clothing to hundreds of families, and to help Pastor Ken Johnson (and others in the

Indianapolis Colts organization) deliver Christmas gifts to families without fathers, and to families where fathers are in the military away from home.

I am actively involved in the Great Banquet ministry hosted by Second Presbyterian Church, and since 1999 have met monthly with an accountability group.

9. Legal Proceedings

A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

I have been “named” as a party in many legal proceedings where I petitioned a Court to admit a deceased client’s Will to probate, the Court appointed me as personal representative of an estate, as trustee of docketed trusts, minor’s trusts, and as a special administrator. I have not listed such non-confrontational matters. To follow is a list of cases involving my individual interests:

Curtis Shirley v. Joseph Bruggeman, Cause No. 02D01-0003-TR-018, (fee collection case). This matter was resolved in 2004.

Forrest Hilligoss, executor of the Estate of Lavon Crawford v. Curtis E. Shirley, Cause No. 49D05-0307-CT-1266 (dispute over the calculation of an alternative valuation date on an IRS Form 706). This matter was resolved in 2004.

Hoosier Outdoor Advertising Corporation v. Curtis E. Shirley and Leo Hickman, Cause No. 49D01-0601-CT-743 (dispute over conflict of interest and legal fees). This matter was resolved in 2010.

Raymond Breining v. Richard Harkness, Cause No. 49C01-0411- PL-4040, on appeal 872 N.E.2d 155 (Ind.App. 2007) (although I was not a party, the issue was whether an attorney is liable where client sanctioned). This matter was resolved in 2010.

Curtis E. Shirley v. BFS Retail & Commercial, Cause No. 49C01-1106-PL-022093 (suit to replace motor after repair shop installed the wrong part). This matter was resolved in 2011.

In re the Marriage of Curtis E. Shirley and Aimee L. Shirley, Cause No. 32D01-1105-DR-0400. These matters were resolved and dismissed in 2014. *Christine Douglas v. Aimee L. Shirley*, Cause No. 29D04-1502-CC-01485 (fee collection case). This matter was resolved in 2015.

Eric D. Schmadeke v. Curtis E. Shirley, Cause No. 49D12-1406-CT-020908 (I represented J.P. Morgan Chase Bank and Sandra S. Schmadeke as co-personal representatives in the Estate of William A. Schmadeke, Cause No. 49D08-0609-ES-039480, and J.P. Morgan Chase Bank as trustee of the decedent's trusts. The successor trustee of the Grandchildren's Trust alleges Chase Bank did not properly fund the trust, which dispute is subject to a tolling agreement. The Grandchildren's Trustee filed suit against me alleging malpractice, etc., even though I never represented the successor trustee. I consider the case against me frivolous and without merit, and prohibited under I.C. § 29-1-10-20.) My client, Chase Bank, never filed any allegations against me. Questions concerning this matter may be directed to my attorney, Michael E. Brown, 317.968.8119.

The Estate of Ronald Austgen, Cause No. 45D02-1109-ES-046, the *Estate v. Curtis E. Shirley and Robin Austgen*, Cause No. 45C01-1502-CT-038, and *Bankruptcy of Robin Austgen*, Case No. 15-22599, U.S.D.C., Northern District (I represented Robin Austgen as a will contestant and claimant in the estate of her husband. Over a year after withdrawing from the case the Estate brought a sanctions petition against client and attorney, and other related litigation. I consider the case against me frivolous and without merit.) My client, Robin Austgen, never filed any allegations against me. Questions concerning this matter may be directed to my attorney, Brian C. Hewitt, 317.829.1910.

B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

None.

C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

In October, 2010 the Indiana Supreme Court suspended me for thirty (30) days with automatic reinstatement. *In the Matter of Curtis E. Shirley*, 930 N.E.2d 1135 (Ind. 2010) (disciplinary commission matter involving a conflict of interest, an unreasonable fee, and related charges for my representing and charging a corporation while also representing its controlling shareholder and president on an individual matter). Upon request by any Judicial Nominating Commission member or the

Governor's office, I will make available my responses to the Disciplinary Commission's investigation, the agreed statement of circumstances and conditional agreement for discipline submitted to the Indiana Supreme Court, and any other documents or information involving this matter.

D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

None.

10. References

A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

Ronald M. Katz, Esq.

Martha T. Starkey, Esq.

Robert W. York, Esq.

B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

John A. Floreancig, Esq.

Dean Emeritus William F. Harvey

Professor Lawrence A. Jegen III

C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

Edward A. Klint

Colin Maiorano

Paul A. Stewart

11. State Police Release Form and Photograph

A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

Attached.

B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

Attached.

Respectfully submitted,

CURTIS EDWARD SHIRLEY

January 22, 2016

Waiver and Statement of Consent

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application. The undersigned acknowledges having read the Instructions attached to the application. The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

01.22.16

Date

Applicant Signature

CURTIS EDWARD SHIRLEY